

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

BILLY WALLS,

Plaintiff,

v.

CIVIL ACTION NO. 2:09-cv-01073

ACTAVIS GROUP, hf et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is plaintiff's counsel's motion to withdraw [Dckt. 28].

On February 17, 2010, I entered an order deferring a ruling on a previous motion for an order to show cause filed by the defendants and granting the plaintiff an additional 30 days to serve a completed fact sheet on the defendants pursuant to PTO16. Plaintiff's counsel had asserted that the extension of time to comply with PTO 16 was necessary due to his inability to get information from the plaintiff despite diligent efforts to do so.

The instant motion to withdraw asserts that plaintiff's counsel has been "unable to meet past discovery deadlines and is likely to be unable to meet future deadlines set-out by the court as a result of Mr. Wall's failure to communicate with his attorneys in any way whatsoever." Counsel notes that a copy of the motion to withdraw has been delivered to the plaintiff, Mr. Walls, by both certified and regular mail at his last known address. It is unknown whether the plaintiff opposes this withdrawal as he has allegedly not responded to any attempt at communication.

Based upon the plaintiff's failure to cooperate with his counsel, it appears he no longer wishes to prosecute this action. Accordingly, I **ORDER** the plaintiff to advise me in writing no later than March 19, 2010, if he intends to continue to pursue this civil action. ***The failure to respond by that date will be treated as abandonment of this litigation, at which point I will dismiss this action with prejudice.*** Counsel for the plaintiff is directed to serve a copy of this Memorandum Opinion and Order, return receipt requested, upon Mr. Walls no later than March 10, 2010.

I defer a ruling on the motion to withdraw pending resolution of the above order. The pending deadline of March 19, 2010, for plaintiff to provide a completed fact sheet is hereby **ORDERED** extended to March 31, 2010, if necessary after resolution of the above order.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 3, 2010



Joseph R. Goodwin, Chief Judge